

*REMARKS/ARGUMENTS**The Pending Claims*

Claims 14-29, 46-62, 67-71, and 79-95 are pending and are directed to an isolated polypeptide up to 12 amino acids in length comprising an amino acid sequence selected from the group consisting of SEQ ID NO: 1 and 14-19 (claims 14-29, 79, and 80), as well as methods of using the isolated polypeptide (claims 46-62, 67-71, and 81-95).

Claims 46-62, 67-71, and 81-95 have been labeled as withdrawn as directed to a non-elected invention. Applicants note that the elected claims (i.e., claims 14-29) are related to the withdrawn claims (i.e., claims 46-62, 67-71, and 81-95) as product and process of using the product, respectively. As set forth in the Office Action dated December 18, 2008 (see pages 6-7) and in accordance with MPEP § 806.05(f), when the Office requires restriction between product and process claims and Applicants elect claims directed to the product, which claims are subsequently found to be allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claims will be rejoined in accordance with the provisions of MPEP § 821.04. Therefore, Applicants request, upon a finding that one or more of the elected product claims (i.e., claims 14-29) is allowable, that the withdrawn process claims (i.e., claims 46-62, 67-71, and 81-95) be rejoined and considered.

Amendments to the Claims

Claims 1-13, 31-45, 63-66, and 72-78 have been canceled as directed to a non-elected invention. Applicants reserve the right to pursue the canceled subject matter in one or more divisional, continuation, or continuation-in-part applications.

Claim 14 has been amended to recite that the isolated polypeptide comprises an amino acid sequence selected from the group consisting of SEQ ID NO: 1 and 14-19, as supported by the specification at, for example, the table at pages 3-4 and Table 4.

Claims 15, 16, 27-29, 47-50, and 52-55 have been amended to recite particular embodiments of claims 14, 46, and 51.

Claims 56 and 67 have been amended to depend from claim 14.

Claims 68-71 have been amended to recite particular embodiments of claim 67.

Claims 79-95 are new and recite particular embodiments of claims 14, 46, 51, 56, and 67.

No new matter has been added by the amendments to the claims.

Summary of the Office Action

The Office maintains the rejection of claims 14-29 under 35 U.S.C. § 112, first paragraph, as allegedly lacking written description.

The Office maintains the rejection of claim 15 under 35 U.S.C. § 102(b) as allegedly anticipated by Gendler et al., *J. Biol. Chem.*, 265: 15286-15293 (1990).

The Office maintains the rejection of claim 15 under 35 U.S.C. § 102(b) as allegedly anticipated by Thomson et al. (WO 01/90197).

Reconsideration of these rejections is hereby requested.

Discussion of the Written Description Rejection

The Office contends that the specification does not adequately describe polypeptides having at least 60%, at least 80%, at least 90%, or at least 99.9% identity to the amino acid sequences of SEQ ID NOs: 1-2 and 14-19. Applicants disagree with the Office for the reasons presented in the previous "Reply to Office Action;" however, in an effort to advance prosecution, Applicants have amended the claims to recite that the polypeptide comprises an amino acid sequence selected from the group consisting of SEQ ID NO: 1 and 14-19. The specification describes such polypeptides at, for example, the table at pages 3-4 and Table 4.

Applicants believe that the pending claims, as amended, are adequately described by the specification. Therefore, Applicants request that the written description rejection be withdrawn.

Discussion of the Anticipation Rejections

The Office contends that claim 15 is anticipated by each of the Gendler and Thomson references because the references disclose a polypeptide derived from MUC-1 that comprises the sequence of SEQ ID NO: 1.

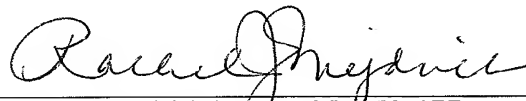
Claim 15, as amended, depends from claim 14. Applicants note that the Office did not include claim 14 in the anticipation rejections. Specifically, claim 15 now recites that the isolated polypeptide is up to 12 amino acids in length and comprises SEQ ID NO: 1. As set forth in the previous "Reply to Office Action", the Gendler and Thomson references disclose longer peptide sequences, and it would not be obvious in view of the cited references for one of ordinary skill in the art to make the shorter peptides recited in the pending claims.

For these reasons, Applicants request that the anticipation rejections of claim 15 be withdrawn.

Conclusion

Applicants respectfully submit that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned agent.

Respectfully submitted,



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